

NEWS RELEASE

RELEASED BY: Attorney General Peter W. Heed
SUBJECT: New Hampshire Sues Major Oil Companies over MTBE Pollution
DATE: October 6, 2003
RELEASE TIME: Immediate

Attorney General Peter W. Heed announced today that New Hampshire has filed a lawsuit in state court against major oil companies that added the chemical “methyl tertiary butyl ether” (“MTBE”) to gasoline, causing widespread contamination of the state’s waters with a chemical that is costly to find and remove.

Governor Craig Benson and Department of Environmental Services (“DES”) Commissioner Michael Nolin simultaneously announced their full support of the lawsuit.

The lawsuit, filed in Merrimack County Superior Court, claims that twenty-two major oil companies, including ExxonMobil Corporation and Lyondell Chemical Company, have added increasing amounts of MTBE to New Hampshire’s gasoline even though they knew years ago that it would contaminate water supplies. The state alleges that the manufacturers and refiners produced a defective product, created a public nuisance and violated state environmental and consumer protection laws. The state asks the court to hold the companies responsible for all costs associated with addressing the problem, including investigative and cleanup costs, and to assess monetary penalties.

Attorney General Heed said: “In New Hampshire, clean water is a precious resource that we depend upon for drinking, recreation and every aspect of our health and economic well being. MTBE has become a significant and costly threat, especially to the underground aquifers that most of us rely upon for drinking water. These companies knew of the dangers that adding MTBE to gasoline posed to water resources. They, and not the state or its citizens, should pay the bill to fully address this unprecedented environmental problem.”

MTBE has been associated with adverse health consequences and can render water unpalatable, even at very low levels. Because MTBE dissolves easily in water, it travels faster and farther than other gasoline constituents and is more difficult to find and remove, making cleanup more expensive.

Although the state has been at the forefront of adopting strict gasoline storage regulations, MTBE is still escaping into the environment. Contamination often is not traceable to a particular source or spill and may not even be associated with underground leaks at gas stations. To protect public health, the state has established a health-based standard of 13 parts per billion (ppb) for MTBE, which triggers regulatory cleanup response. State funding mechanisms have had to cover many of those cleanup expenses, but the funds are not available for cleanup if the health-based standard is not exceeded.

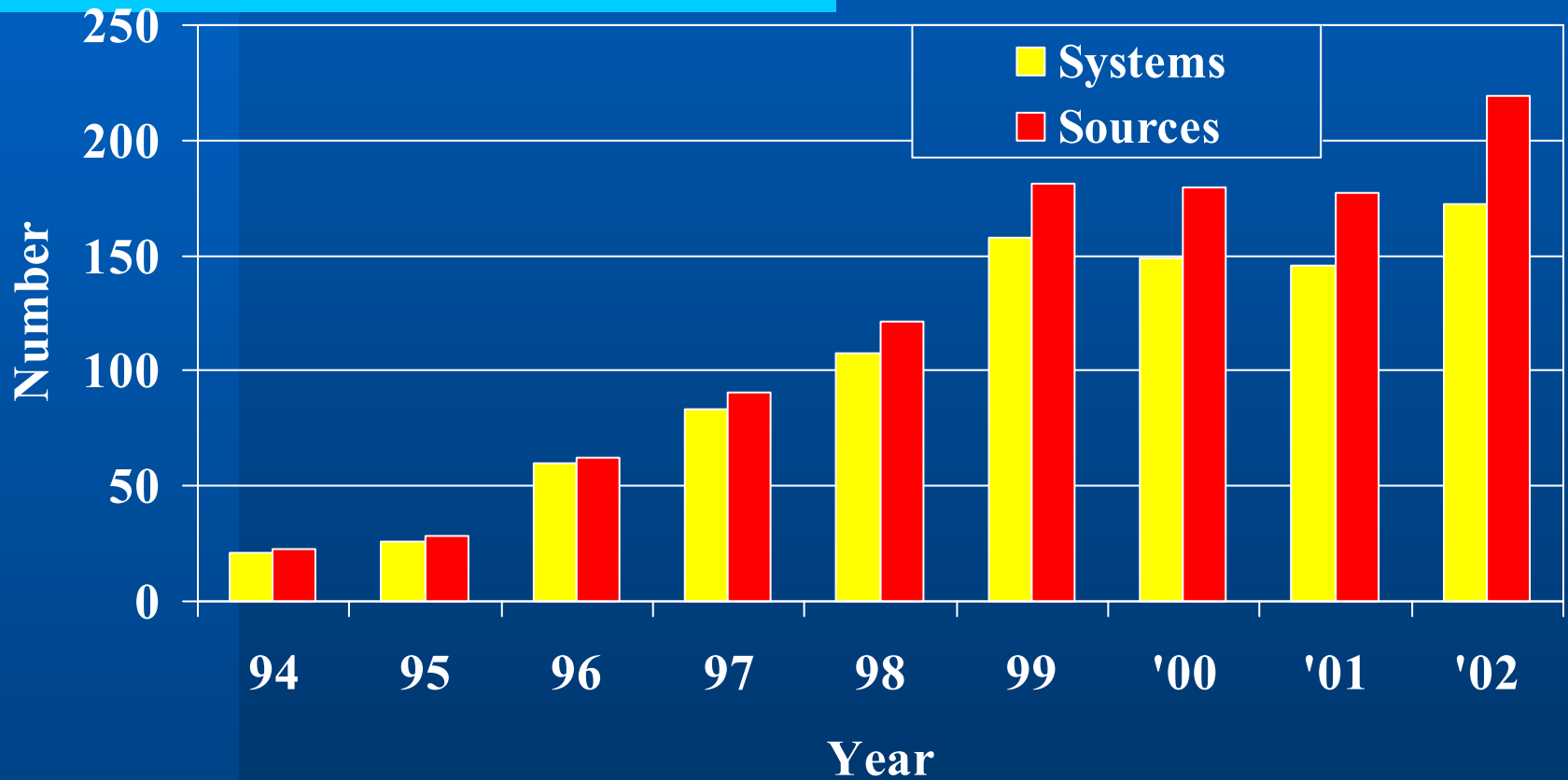
Approximately 60% of the state's population relies on groundwater wells for drinking water. The state's lawsuit cites several statistics on contamination of those supplies. For example, as of 2002, MTBE was detected in more than 15% of the public water supplies tested statewide. More than 33% of those tested in Strafford County and more than 23% of those tested in Rockingham County contained some level of MTBE contamination. In addition, the state's preliminary analysis of more recent data generated by a joint DES/U.S. Geological Survey study of Rockingham County's public water systems, which used lower detection limits, shows that 41% of those tested contain some level of MTBE. The state also estimates, based on studies from other states, that about 40,000 private wells in New Hampshire contain some level of MTBE.

DES Commissioner Nolin said: "We are already addressing water systems that have MTBE levels exceeding the health-based standard of 13 ppb, but MTBE is pervasive and there is widespread impact that cannot necessarily be addressed under state regulations. This lawsuit complements our existing efforts with a more proactive approach to identifying and restoring all contaminated and threatened waters with funding from those who are responsible."

MTBE was first used in gasoline in the late 1970s in small amounts as an octane enhancer, but in the 1990s, major oil companies chose to significantly increase MTBE levels in gasoline as an inexpensive way to comply with the fuel oxygenate mandate under the Clean Air Act. They chose MTBE rather than employ alternatives that they knew did not pose the same threat to water supplies. New Hampshire has chosen to remove itself from the oxygenated fuels program in the absence of Congressional action on MTBE, but is still awaiting federal approval.

Please contact Maureen D. Smith, Senior Assistant Attorney General, at (603) 271-3679, for further information. A copy of the state's lawsuit can be found on the New Hampshire Department of Justice website at www.state.nh.us/nhdoj.

Public Water Supplies with MtBE Detections



2002

% Public Water Supplies With MtBE Detects

State-Wide - 15.1%

RFG - 22.2%

Non RFG - 6.0%

